

REMARKS

The Application has been reviewed in light of the Office Action dated July 1, 2005.

Claims 1 to 48 are pending, of which Claims 1, 11, 21, 24, 35 and 46 are independent.

Reconsideration and further examination are respectfully requested.

Initially, Applicants wish to thank the Examiner for the courtesies extended to Applicants' undersigned representative during the December 13, 2005 telephone interview. During the telephone interview, differences between the applied art and the claimed invention were discussed. The remarks presented herein are based on the discussion had during the interview.

By the Office Action, Claims 1 to 48 are rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,996,015 (Day) and U.S. Patent No. 6,192,340 (Abecassis). Reconsideration and withdrawal of the rejection are respectfully requested.

Turning first to the language of Claim 1, a method is recited for broadcasting data streams through a computer network to a user's computer. According to the method, a database of data streams is provided, and a data stream is selected from the database according to a selection method. One of the data streams is transmitted to a user's computer. Feedback is received from the user, the feedback expresses a preference regarding the transmitted data stream. The selection method is updated to better reflect the received preference of the user. Data streams transmitted to the user are biased in accordance with the received preference.

The applied art, namely Day and Abecassis, when taken alone or in any permissible combination (if one even exists) fails to teach or to suggest each and every one of the limitations

of the claimed invention, particularly as regards broadcasting selected data streams to a user through a computer network.

The Office Action concedes that Day fails to disclose selection of a data stream from a database, and further that Day fails to disclose use of user preferences for rating data. In view of the concessions made in the Office Action, Day also fails to disclose broadcasting selected data streams to a user computer through a computer network.

Abecassis also fails to teach or to suggest broadcasting selected data streams. In fact, Abecassis is not directed to broadcasting, and/or to broadcasting selected music to a user through a computer network. Rather, Abecassis is directed to a problem that results when users listen to their own music collections rather than listening to a broadcast, such as a radio broadcast. As discussed at col. 1, lines 14 to 30, Abecassis differentiates between users listening to their own music collection and a real-time broadcast, such as radio broadcast. Particularly, Abecassis indicates that since a user is listening to her own music collection and not a radio broadcast, the user is not able to receive stock quotes, or other informational items, typically broadcast via the radio broadcast. Abecassis focuses on and addresses this problem, and allows a user to listen to selections from her own music collection, as well as informational items that the user selects to be interleaved with the music from the user's music collection. Abecassis is not directed to broadcasts, such as radio broadcasts, and is certainly not directed to selecting data streams for broadcasting to a user computer via a computer network.

During the interview, the Examiner pointed to col. 1, lines 56 to 60 of Abecassis and stated that Abecassis describes that a user's music collection can include music from a radio broadcast. However, as was pointed out in response, Abecassis describes that such music is

captured from a radio broadcast for inclusion in the user's music collection. For example, see col., 2, lines 42 to 52, wherein Abecassis explains that the user captures the FM music broadcast for purposes of including the music in the user's music collection. Capturing music broadcast via an FM transmission into a user's music collection is not the same as selecting music for broadcast to the user.

Thus, neither Day nor Abecassis, either alone or in any permissible combination (if one even exists, a point which is in no way conceded by the Applicant) disclose or even suggest selecting data streams from a database, and broadcasting the selected data streams to a user's computer through a computer network.

In view of the foregoing, it is submitted that the applied art, namely Day and Abecassis, either alone or in any permissible combination (if one even exists) fails to teach each and every one of the claimed features in the present application. In addition, the applied art, either alone or in any permissible combination (if one even exists) fails to render obvious the subject matter of the claimed invention.

Accordingly, it is believed that Claim 1 is in patentable over the applied art. In addition, it is submitted that Claims 11, 21, 24, 35 and 46 are patentable over the applied art for at least the reasons discussed above with reference to Claim 1.

The other claims are each dependent from the independent claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.


The Applicant respectfully requests that a timely Notice of Allowance therefore be issued in this case. Should matters remain which the Examiner believes could be resolved in a further telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney.

In this regard, Applicant's undersigned attorney may be reached by phone in California (Pacific Standard Time) at (714) 708-6500. All correspondence should continue to be directed to the below-listed address.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-2638. Please ensure that the Attorney Docket Number is referred when charging any payments or credits for this case.

Respectfully submitted,

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